

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	CIVIL ACTION
EUCLIDES SOTO, LOUIS A. MARTINEZ,)	NO.: 04-10892-JLT
JOSE RAMIREZ, CLEMENTE HERNANDEZ,)	
CESAR PIZARO, ELISON PENA,)	
JUAN COLON, JOSE ORTIZ,)	
RAFAEL TORRES, ANGEL BAEZ,)	
ANTONIO MARTINEZ, WILFREDO ORTIZ,)	
EULOGIO ORTIZ, MIRRAIN MIRANDA,)	
RAFAEL MORENO, NELSON ACEVEDO,)	
and RAMON RODRIGUEZ,)	
Plaintiffs,)	
)	
v.)	
)	
)	
UNITED STEELWORKERS OF AMERICA,)	
LOCAL 421-U, AND UNITED STEELWORKERS))	
OF AMERICA,)	
Defendants.)	
_____)	

MOTION TO DEFAULT ON CLAIM AGAINST DEFENDANTS

Plaintiffs move for default on the remaining claim against the defendants for the violation of court order:

1. Prior to this motion, there was consultation between the parties under the local rules.
2. On November 3, 2004, the court entered the order annexed hereto in regard to production of documents.
3. The defendants violated the order by failing to produce 243 pages of collective bargaining agreements, notes from negotiations, etc. until one and a half day before the pre-trial, and ten days before trial.

4. However, before this incredibly late production, there were depositions of 19 people, and trial preparation three times, and the fielding of dozens of dispositive motions.
5. All of this late disclosed material is central to the case.
6. All the late disclosed papers will be available to the court for review and involve every material claim and defense of the case because the production is too voluminous to file electronically.
7. For the clear violation of a court order, the court can default the claim, and should here, see Fed. R. Civ. P. 37.

Respectfully submitted,

Date: January 11, 2007

/s/ Robert O. Berger
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served by electronic transfer on the attorney of record.

Dated: January 11, 2007

/s/ Robert O. Berger
Robert O. Berger (BBO#: 038900)